



**Upper Tribunal
(Immigration and Asylum Chamber)**

Appeal Number: PA/06707/2016

THE IMMIGRATION ACTS

**Heard at Field House
On 14 November 2017**

**Decision &
Promulgated
On 6 March 2018**

Reasons

Before

DEPUTY UPPER TRIBUNAL JUDGE PEART

Between

**S.K
(ANONYMITY DIRECTION MADE)**

Appellant

and

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Respondent

Representation:

For the Appellant: Ms Easty of Counsel

For the Respondent: Mr Tufan, Senior Home Office Presenting Officer

DECISION AND REASONS

1. The appellant is a citizen of Afghanistan. He was born on 1 January 1988.
2. He appealed against the respondent's refusal to grant him asylum dated 14 June 2016. The respondent did not accept the appellant was a credible witness with regard to events in his own country such that he would not be at risk on return.

3. The appeal was dismissed by Judge Francis J Farrelly in a decision promulgated on 22 May 2017. The judge did not accept the appellant was credible. See [18]-[21].
4. There are four grounds:
5. Ground 1. The judge failed to consider that it was the appellant's claim that he was beaten unconscious and the Taliban might have thought he was dead. See his witness statement at [8] (page 4 of the appellant's bundle). Further, at the time of the attack the Taliban were not aware of his name and family. See statement at [9].
6. Ground 2. The judge said he did not accept that the Taliban would resort to sending threatening letters rather than taking action. The ground claims the judge erred because he failed to consider the background evidence in relation to the Taliban and threatening letters which are called night letters. See pages 126-127 of the appellant's bundle.
7. Ground 3. The judge said the appellant could relocate to Kabul but at [21] of his decision he accepted that there is reference to tribal and family connections being a means of identifying persons. The ground claims that the judge had not given consideration to the fact that the appellant's family are a well-known military family. The judge failed to consider pages 113-115 of the appellant's background evidence in relation to the Taliban tracing those who are wanted by them.
8. Ground 4. The judge failed to consider the witness statement of the appellant's father and whether he accepted the truth of that statement. The judge failed to consider the documents from the appellant's family members and **MSM (journalists; political opinion; risk) Somalia [2015] UKUT 00413 (IAC)** which was referred to by Counsel, given the fact that the appellant said in his evidence that there was no other work that he would do in Afghanistan apart from with the military.
9. Judge Saffer in a decision dated 12 September 2017 considered that all grounds were arguable for the reasons set out in the application, that is, inadequate consideration of the "facts" asserted regarding the bus incident and inadequate findings regarding the risk associated from the appellant's past army service.

Submissions on Error of Law

10. Ms Easty relied upon the grounds. The judge carried out an inadequate analysis. The judge had failed to engage with the appellant's evidence in terms of background material and statements of his family some of whom had been granted asylum here.
11. Mr Tufan submitted that the judge had engaged with the issues. He had assessed the appellant's circumstances against the appropriate case law **AK (Article 15(c)) Afghanistan CG [2012] UKUT 00163 (IAC)** although the judge had in error called it **HJ**.

Conclusion on Error of Law

12. There was considerable material with which the judge failed to engage. The sum total of his analysis was contained within two short paragraphs, [18] and [19] of his decision. I do not accept that the judge gave this asylum appeal anxious scrutiny. There is either no analysis or an inadequate analysis of the appellant's account set against the judge's reasons for disbelieving the account. What the judge has done is to set out the respondent's view of the application without properly engaging with the appellant's evidence. At [18] and [19] the judge adopts a plausibility approach to the appellant's claim without analysis of the claimed events.

Notice of Decision

I set aside the decision of the First-tier Tribunal in its entirety as it contains material errors of law. The appeal will be reheard de novo in the First-tier.

Short directions are attached to this decision.

Direction Regarding Anonymity - Rule 14 of the Tribunal Procedure (Upper Tribunal) Rules 2008

Unless and until a Tribunal or court directs otherwise, the appellant is granted anonymity. No report of these proceedings shall directly or indirectly identify him or any member of their family. This direction applies both to the appellant and to the respondent. Failure to comply with this direction could lead to contempt of court proceedings.

Signed

Date 14 November 2017

Deputy Upper Tribunal Judge Peart